

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICHARD J. NAYLOR

FILED

CIVIL ACTION

v.

JUL 26 2013

GEORGE W. HILL  
CORRECTIONAL FACILITY, et al.

MICHAEL L. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

NO. 13-4214

M E M O R A N D U M

TUCKER, Ch. J.

JULY 25, 2013

Plaintiff has filed a pro se 42 U.S.C. § 1983 civil rights lawsuit against the George W. Hill Correctional Facility and the Correctional Education Center of New Jersey. He alleges that he was physically assaulted and injured by another inmate at the George W. Hill Correctional Facility.

For the following reasons, plaintiff's claims will be dismissed pursuant to 28 U.S.C. § 1915(e).

Plaintiff is suing the George W. Hill Correctional Facility and the Correctional Educational Center of New Jersey. However, a prison is not a "person" subject to suit under the civil rights laws. Mitchell v. Chester County Farms Prison, 426 F. Supp. 271 (E.D. Pa. 1976); see also Brooks v. Pembroke City Jail, 722 F. Supp. 1294, 1301 (E.D.N.C. 1989).

Furthermore, in order to bring suit under § 1983, plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. West v. Atkins, 487 U.S. 42 (1988). There are no allegations in the complaint that would allow this Court to find that plaintiff's constitutional rights were violated by a person acting under color of state law. Plaintiff alleges that he was assaulted by

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CLERK OF COURT

another inmate because he would not give him a newspaper. He further alleges that after the assault he was taken to the medical unit where he received treatment for his injuries. He does not allege any facts sufficient to establish that any prison official was deliberately indifferent to his health or safety. See Farmer v. Brennan, 511 U.S. 825, 835 (1994).

A district court should generally provide a pro se plaintiff with leave to amend unless amendment would be inequitable or futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 114 (3d Cir. 2002). Here, plaintiff will not be given leave to amend because amendment would be futile, as he cannot cure the above deficiencies in his complaint.